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Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Swaziland

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

GE.16-16293(E)
1616293

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Responses of Swaziland to the recommendations contained in paragraph 109 of the report of the working group on the Universal Periodic Review (A/HRC/33/14)

1. The Kingdom of Swaziland welcomes the recommendations made during its second Universal Periodic Review on 10 May 2016.

2. The Kingdom of Swaziland is pleased to report that, out of 181 recommendations, 131 enjoy the support of the State and 50 do not as yet enjoy the State's support.

I. Sign, ratify or accede to international treaties

A. Second Optional Protocol to the International Covenant on Civil and Political Rights[1]

3. Swaziland is not yet ready to accept this recommendation. Although this recommendation does not enjoy Swaziland's support, Swaziland does not carry out capital punishment and will not do so in the foreseeable future.

B. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women[2]

4. This recommendation enjoys the support of the State.

C. Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment[3]

5. This recommendation is accepted. Swaziland will accede to the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, in accordance with its domestic processes, prior to Swaziland's third UPR.

D. Optional Protocol to the Convention on the Rights of the Child[4]

6. Swaziland accepts this recommendation. The State acceded to this protocol on 24 September 2012. To this end, the country has enacted the Children Protection and Welfare Act, 2012.

E. International Convention on the Protection of the Rights of All Migrant Workers and members of their Families[5]

7. This recommendation does not enjoy the support of Swaziland. The Constitution of Swaziland adequately protects the rights of migrant workers and members of their families.

F. International Convention for the Protection of All Persons from Enforced Disappearance[6]

8. This recommendation is noted.

G. Convention on the Prevention and Punishment of the Crime of Genocide[7]

9. Swaziland accepts this recommendation.

H. Indigenous and Tribal Peoples Convention 169 of the ILO[8]

10. This recommendation is noted. Swazis are indigenous to Swaziland and the country is homogenous.

II. Formal abolition/moratorium on the death penalty[9]

11. Swaziland has noted this recommendation. However, a factual moratorium on the application of the death penalty will remain in place.

III. Discrimination

A. Allow women to transmit their nationality to their children[10]

12. Swaziland has noted this recommendation and appreciates the spirit it was made. Enabling Swazi women to transmit their nationality to their children with foreign men will require amendments to the Constitution. Swaziland will consider amending the Constitution.

B. Cultural practices that discriminate against children with disabilities, women, and all persons living with HIV/AIDS[11]

13. Swaziland accepts this recommendation.

C. Align national laws with CEDAW[12]

14. Swaziland accepts this recommendation.

D. People living with albinism[13]

15. Swaziland accepts these recommendations. A national registry of persons with albinism will be created to help prevent the killings of people with this condition.

IV. Criminalization of torture[14]

16. This recommendation is noted. The criminal law of Swaziland is broad enough to prosecute and punish perpetrators of torture without creating a new statutory offence. Furthermore perpetrators may be held liable for damages under our civil law.

17. The law enforcement objectives contained in Section 57 of our Constitution specifically prohibits law enforcement officers from committing torture and other forms of cruel, inhuman or degrading treatment or punishment. What is more, this prohibition has

been incorporated into section 10 of the Police Bill. This Bill is presently going through the legislative process.

V. Prison conditions[15]

18. Swaziland accepts these recommendations. Currently the State is rehabilitating dilapidated correctional facilities and constructing new ones. All Correctional facilities have clinics manned by Matrons and Nutritionists who look into the menu of offenders. All offenders are provided with three meals a day.

19. All Correctional centres are administered in accordance with UN Standard Minimum Rules for the Treatment of Prisoners.

VI. Sexual Offences and Domestic Violence Bill[16]

20. This recommendation is accepted. Swaziland will adopt without further delay the Sexual Offences and Domestic Violence Bill and take measures to abolish practises that are harmful to women and girls.

VII. Early marriages[17]

21. Swaziland accepts this recommendation. The Marriage Act is currently being amended. The Draft Bill provides for 21 years being the marriageable age for both boys and girls.

VIII. Prohibition of corporal punishment[18]

22. The recommendation is accepted in part. The Education Sector Policy already prohibits corporal punishment in schools, hence the Ministry of Education has introduced positive discipline in schools.

23. Legislation still provides for corporal punishment of offenders. However, in practice the courts do not impose corporal punishment as a sentence for offenders and hence offenders are not subjected to corporal punishment. In as far as children in conflict with the law are concerned, the Child Protection and Welfare Act, 2012 has abolished whipping as a competent sentence.

24. Swaziland is not yet ready to accept prohibiting corporal punishment of children in the home.

IX. Forced labour[19]

25. Swaziland accepts this recommendation. Section 17 (2) of the Constitution of Swaziland provides that "A person shall not be required to perform forced labour". This provision is being implemented and observed.

X. Composition of the Judicial Service commission[20]

26. This recommendation is noted.

XI. Freedom of expression, association and assembly[21]

27. Swaziland accepts these recommendations. The Constitution of Swaziland guarantees the rights to freedom of expression, association and assembly. Since Swaziland's review in May 2016, the Public Order Bill has been tabled before the House of Assembly and it went through a process of public consultation.

28. The objects of the Bill are to:

(a) promote and protect order, public health, public safetyand public morals;

(b) give effect to fundamental rights of freedom of peaceful and freedom of expression embodied in the Constitution of the Kingdom of Swaziland;

(c) provide for notification and consultation in respect of public gatherings;

(d) provide for the regulation and prohibition of public gatherings and public events;

(e) delimit and regulate the powers of the police during public gatherings; and

(f) define and proscribe certain public order offences.

29. The House of Assembly has passed the Bill and it is now before the Senate which is also expected to pass the Bill.

XII Freedom of information law[22]

30. This recommendation is accepted. A draft access to Information Bill is in place. The Bill seeks to encourage a culture of openness, transparency and accountability in public bodies by providing for access to information held by these public bodies thus enabling every citizen to fully exercise their constitutional right to freedom of expression.

XIII. Amend suppression of terrorism act[23]

31. Swaziland accepts this recommendation. The House of Assembly has passed the Suppression of Terrorism (Amendment) Bill. The Bill amends the definition of 'terrorist act'. In the Bill 'terrorist act' is confined to the use of force or threat of force to achieve political objectives. The Bill is now before the second chamber of Parliament, the Senate.

XIV. Registration of political parties[24]

32. Swaziland has noted this recommendation. The State is not yet ready to allow political parties to register and contest political power. The majority of Swazis do not want political parties to contest elections. However, individual members of political parties are able to contest elections in their personal capacities.

Notes

[1] Recommendations 109.1, 109.2, 109.3, 109.4, 109.5, 109.6, 109.7 and 109.8.
[2] Recommendations 109.9, 109.10, 109.11, and 109.12.
[3] Recommendations 109.13, 109.14 and 109.15.
[4] Recommendation 109.11.
[5] Recommendations109.16, 109.17, 109.18, 109.19 and 109.20.

[6] Recommendations 109.20, 109.21, 109.22, 109.23, 109.24, and 109.25.
[7] Recommendation 109.26.
[8] Recommendation 109.27.
[9] Recommendations 109.6, 109.7, 109.8, 109.37, 109.38, 109.39.
[10] Recommendations 109.28, 109.31, 109.32, 109.33, 109.34, 109.35, and 109.36.
[11] Recommendation 109.29.
[12] Recommendations 109.30, 109.49.
[13] Recommendations 109.40, 109.41, 109.42, 109.43 and 109.44.
[14] Recommendations 109.45 and 109.46.
[15] Recommendations 109.47 and 109.48.
[16] Recommendations 109.49 and 109.50.
[17] Recommendations 109.51, 109.52, 109.53, 109.54, 109.55, 109.56 and 109.57.
[18] Recommendation 109.58.
[19] Recommendation 109.59.
[20] Recommendation 109.60.
[21] Recommendations 109.61, 109.62, 109.63, 109.65, 109.69 and 109.70.
[22] Recommendation 109.64.
[23] Recommendations 109.66, 109.67 and 109.68.
[24] Recommendations 109.70, 109.71 and 109.72.

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Trinidad and Tobago

Addendum

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GE.16-16259(E)
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Please recycle

1. The Government of the Republic of Trinidad and Tobago (GOTT) presents the responses to outcomes of the Universal Periodic Review, second cycle on Trinidad and Tobago conducted on the 10th of May 2016.

I. Recommendations 108.1 to 108.24 – Noted

2. The following general recommendation represents a summary of recommendations received in relation to the ratification and implementation of all core Universal Human Rights treaties and conventions. The GOTT undertook to examine with a view to signing, ratifying and implementing as applicable, the following human rights instruments:

- The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- The United Nations Convention Against Torture, and Other Cruel, Inhumane or Degrading Treatment (CAT);
- The Optional Protocol to the United Nations Convention Against Torture, and Other Cruel, Inhumane or Degrading Treatment (OP-CAT);
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, (ICRMW);
- The International Convention for the Protection of all Persons from Enforced Disappearance (CED);
- The Optional Protocols to the Convention on the Rights of the Child (OPs-CRC).

3. At this time the GOTT is unable to accept the recommendations to sign, ratify and implement the CAT or the Optional Protocol to the United Nations Convention Against Torture, and Other Cruel, Inhumane or Degrading Treatment. Becoming a party to these international legal instruments will require significant domestic legislative changes in Trinidad and Tobago because some of its provisions conflict materially with existing legislation. A decision to become a party to these instruments would, therefore, require national dialogue, public consultation and consensus as a precursor in order to permit the adoption of the policy contained in this instrument.

4. The issues surrounding the rights of migrant workers have become more prevalent in Trinidad and Tobago and as such the ICRMW has engaged the attention of the GOTT.

5. While Trinidad and Tobago is not significantly confronted by the human rights issues of enforced disappearance dealt with under CED, consideration is still being given to acceding to this core piece of international human rights protection law.

6. With regard to the Optional Protocol to the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, definitive steps have been taken to address the relevant issues under the OP within domestic legislation such as the ***Trafficking in Persons Act, 2011*** and the ***Children Act, 2012***.

II. Recommendations 108.26 to 108.32 – Accepted

7. Trinidad and Tobago does not have a National Human Rights Institution that is accredited under the Paris principles. In 2011, Trinidad and Tobago hosted a regional workshop on National Human Rights institutions in conjunction with the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the Commonwealth Secretariat.

III. Recommendations 108.33 to 108.35 – Noted

8. The Government of Trinidad and Tobago acknowledges the work of the Special Procedures of the Human Rights Council and invitations to Human Rights Special Procedures and seeking technical expertise via the Special Procedure Mechanism of the Human Rights Council would be a matter for consideration in the future.

IV. Recommendations 108.36 to 108.50 and 108.64 – Noted

9. The Government of Trinidad and Tobago ultimately seeks to recognise the human rights of all citizens, which includes the Lesbian, Gay, Bi-Sexual, Transgendered and Intersexed (LGBTI) community. The development of law is a dynamic process which adapts to the development of any given society. The issue of discrimination based on sexual orientation is one which remains a matter of concern in the forefront of the mind of the GOTT. Trinidad and Tobago is seen as a leader in the region in relation to the manner in which it addresses the changing needs of its population.

10. The HIV/AIDS high risk groups including the LGBTI community have been recognized in the National Workplace Policy on HIV/AIDS. This policy contributes to ongoing national efforts to decrease the spread of HIV/AIDS and to mitigate its impact. It does so by setting standards for managing HIV in the workplace and promoting structures and programmes to reduce discrimination.

11. With regard to cases of violence against a member of the LGBTI community, Section 4 of the Constitution enshrines fundamental human rights and freedoms, namely, the right of the individual to life, liberty and security of the person. Every person has the right to equality before and protection of the law. A person also has the right to respect for his private and family life. The exercise of these rights is guaranteed free from discrimination based on race, origin, colour or sex.

12. With particular reference to violence against the LGBTI community, the definition of rape in the ***Sexual Offences Act, 1986*** was amended by Act 31 of 2000 to reflect a gender neutral position with regard to the complainant and the victim. This amendment serves to include protection for victims of violence in same sex relationships.

V. Recommendation 108.52 – Accepted

13. The Police Complaints Authority (PCA) is critical in dealing with the issue of torture and excessive use of force by police officers. The PCA is an independent and impartial body overseeing complaints against police officers and municipal and special reserve police officers in Trinidad and Tobago. It was established in response to an urgent need for appropriate machinery to be set up to address numerous complaints made by members of the public about the conduct of police officers in the exercise of their duties. Its functions include: receiving complaints on the conduct of any police officer; monitoring the investigation of the complaint so as to ensure that the investigation is conducted impartially; reporting to the Minister; and reviewing reports from the Police Complaints Division.

VI. Recommendations 108.53 to 108.59 – Noted

14. Trinidad and Tobago received various recommendations in relation to raising the age in the definition of a "child" in domestic legislation and further raising and unifying the

age of consent to marriage in Trinidad and Tobago's various Marriage Acts, as well as making said age of consent the same for males and females.

15. Under the ***Children Act, 2012*** the "age of a child" is raised to the internationally accepted standard of 18 years. This however, does not affect the age of consent in relation to marriage in domestic legislation, which is an ongoing issue of debate for Trinidad and Tobago. The GOTT has recognized that this is a specific human rights issue which must be addressed in Trinidad and Tobago. In an effort to bring domestic legislation in line with international standards and taking into account the multi-ethnic diversity which exists in Trinidad and Tobago's population, there are currently nationwide public consultations being conducted in relation to this issue.

VII. Recommendations 108.60 and 108.61 – Noted

16. Trinidad and Tobago received various recommendations in relation to the prohibition of corporal punishment against children in schools, all other settings and its criminalization.

17. In relation to the issue of corporal punishment, it has traditionally been accepted as a legitimate form of discipline for youngsters in the Caribbean and mainly inherited as a result of traditional lifestyles from the vast diaspora which constitutes the social and historical composition of most Caribbean countries.

VIII. Recommendations 108.65 to 108.67 – Noted

18. The Government of Trinidad and Tobago gives consideration to the recommendation to strengthen the protection safeguards, in particular the control mechanisms that allow the detection of cases of migrants with special needs for international protection.

19. In relation to the protection of the rights of migrants in general, the GOTT via the Ministry of National Security has implemented a national policy on refugees and asylum seekers. The Ministry of Health has also undertaken an initiative to develop a policy and a national programme which seeks to ensure that the migrant population as a vulnerable group has proper and easy access to HIV/AIDS treatment.

IX. Recommendations 108.25, 108.51 and 108.62

20. There is no response to **Recommendation 108.25** as no such Bill ever existed.

21. **Recommendation 108.51** relates to the implementation of the death penalty and until the existing law is reviewed, there is no comment on this issue. The recommendation is noted.

22. **Recommendation 108.62** is noted.

23. There is currently no status on **Recommendation 108.63** and as such the GOTT notes the recommendation.